KOPERASI SERBAGUNA SANYA BHD (SABAH)

v.

DR JAMES ALFRED (SABAH) & ANOR

COURT OF APPEAL, KUALA LUMPUR
GOPAL SRI RAM JCA
AHMAD FAIRUZ JCA
MOKHTAR SIDIN JCA
[CIVIL APPEAL NO: W-04-47-1997]
10 JULY 2000

LABOUR LAW: *Industrial Court - Award - Compensation for unjust dismissal - Whether High Court may review award of compensation in certiorari proceedings - On what grounds may award of compensation be reviewed*

LABOUR LAW: *Industrial Court - Award - Backwages - Dismissed workman subsequently employed elsewhere - Whether court ought to take into account salary earned from subsequent employment - Whether wrong to award workman full backwages*

LABOUR LAW: *Industrial Court - Award - Compensation in lieu of reinstatement - Dismissed workman subsequently employed elsewhere - Whether compensation in lieu of reinstatement should only be until date of subsequent employment - Principles that court ought to consider in awarding compensation in lieu of reinstatement*

This was an appeal against the High Court's refusal to order *certiorari* to quash an award of the Industrial Court. The appeal centred on the quantum of compensation awarded. Subsequent to his dismissal, the respondent found employment elsewhere. This notwithstanding, the respondent was awarded backwages from date of dismissal to date of award at the rate of his last drawn salary with the appellant and compensation *in lieu* of reinstatement at the rate of one month's salary for each year of service. In awarding compensation *in lieu* of reinstatement, the multiplicand used was the period between the respondent's commencement of employment until date of award. The issues before the court were: (i) whether the High Court had jurisdiction, in *certiorari* proceedings, to interfere with the quantum of compensation; (ii) whether salaries earned by a workman from other employment subsequent to dismissal ought to be taken into account when awarding backwages; and (iii) whether compensation *in lieu* of reinstatement should only be awarded up to the point that a workman obtains other employment and not up to date of award.

Held:

[1] It is open to the High Court in *certiorari* proceedings to determine whether the compensation awarded by the Industrial Court is in accordance with law. If it is not, there is no reason why an award of compensation may not be quashed. Whether the High Court ought to interfere with an award of compensation in any given case will depend on the facts of the particular case. The grounds on which an award of compensation may be reviewed are the same as those on which any decision of a public decision-maker may be challenged. There are at least four reasons why the decision of a public decision-maker may be void, they being, it may be contrary to law, or it may be procedurally flawed, or it may be unreasonable in the *Wednesbury* sense, or it may be disproportionate.

[2] An adjustment should be made to an award of backwages where the workman has found other employment. In the instant case, the Industrial Court proceeded as though the respondent had not been employed elsewhere during the whole of the period in question. The award in respect of backwages was therefore flawed. It was not an award that a reasonable tribunal would have arrived at having regard to the principles of law that govern the position.

[3] As for the award for compensation *in lieu* of an order of reinstatement, there are many imponderables that influence the making of such an award. They include such matters as the stigma which an act of dismissal carries with it. There is also the drawback that the workman, if and when he finds alternative employment, may have to start from a lower rung. The assessment is highly subjective and discretionary. So long as the award is not one that makes one look upon it askance, it must be upheld. The principles that are to be applied to such an award should be more or less the same as those governing an award of damages for personal injury.

[3a] Although the respondent had found other employment elsewhere, the Industrial Court awarded him compensation *in lieu* of reinstatement from the date of commencement of employment to date of award. The additional sum must be taken as representing those vicissitudes referred to such as the disadvantaged position in which the respondent must have found himself in as a result of the dismissal. It may be a little generous but it is neither disproportionate nor unreasonable.

[Award of backwages quashed; matter remitted to Industrial Court for assessment of backwages; each party to bear own costs of appeal.]

*[**Bahasa Malaysia** Translation Of Headnotes]*

Ini adalah rayuan terhadap keputusan Mahkamah Tinggi yang enggan memberi perintah certiorari untuk membatalkan satu award Mahkamah Perusahaan. Rayuan ini berkisarkan kuantum pampasan yang telah diberikan. Berikutan pemecatannya, responden mendapat pekerjaan di tempat lain. Meskipun begitu, responden telah diberi award gaji kebelakang dari tarikh pemecatan sehingga ke tarikh award diberikan pada kadar gaji terakhir yang diterimanya dari perayu dan pampasan sebagai ganti pengembalian semula jawatan pada kadar sebulan gaji untuk setiap tahun perkhidmatan. Dalam memberi pampasan sebagai ganti pengembalian semula jawatan, multiplicand yang digunakan adalah jangkamasa dari permulaan pekerjaan sehingga ke tarikh award diberikan. Isu-isu yang dibangkitkan ialah: (i) samada Mahkamah Tinggi mempunyai bidangkuasa di dalam prosiding *certiorari* untuk menggalang kuantum pampasan; (ii) samada gaji yang diterima oleh seseorang pekerja dari majikan yang baru selepas dipecat patut diambil kira apabila memberi award gaji kebelakang; dan (iii) samada pampasan sebagai ganti pengembalian semula jawatan hanya patut diberikan setakat tarikh pekerja mendapat pekerjaan baru dan bukan setakat tarikh award diberikan.

Diputuskan:
Oleh Lamin Mohd Yunus PMR

[1] Ianya terbuka kepada Mahkamah Tinggi dalam prosiding certiorari untuk memutuskan samada pampasan yang diberikan oleh Mahkamah Perusahaan adalah selaras dengan undang-undang. Jika tidak, tiada sebarang sebab kenapa award pampasan tidak boleh dibatalkan. Samada Mahkamah Tinggi patut mengusik award pampasan di dalam sesuatu kes bergantung kepada fakta-fakta kes tersebut. Alasan-alasan dimana award pampasan boleh dikaji semula adalah sama dengan alasan-alasan yang membolekan sesuatu keputusan pembuat keputusan awam dicabar. Terdapat sekurang-kurang empat sebab kenapa keputusan pembuat keputusan awam mungkin tak sah, iaitu ianya mungkin bertentangan dengan undang-undang, atau ianya mungkin cacat prosedur, atau ianya mungkin tidak munasabah dalam ertikata Wednusbury, atau ianya mungkin tidak berkadar.

[2] Satu pelarasan patut dibuat kepada award gaji kebelakang yang mana pekerja telah mendapat pekerjaan lain. Dalam kes semasa, Mahkamah Perusahaan bertindak seolah-olah responden belum lagi mendapat pekerjaan lain pada keseluruhan jangkamasa yang matan. Dari itu, award gaji kebelakang yang diberikan adalah cacat. Ianya bukan satu award yang munasabah yang boleh dicapai oleh satu tribunal yang waras setelah mempertimbangkan prinsip undang-undang yang berkaitan.

[3] Berkenaan dengan award untuk pampasan sebagai ganti pengembalian semula jawatan, terdapat banyak perkara-perkara ynag tidak dapat dinilaikan yang mempengaruhi pemberian award tersebut. Ianya termasuk perkara-perkara seperti stigma yang berkait dengan pemecatan. Terdapat juga kekurangan, pekerja apabila mendapat pekerjaan alternatif, mungkin terpaksa mula dari peringkat yang lebih bawah. Taksiran adalah sesuatu yang sangat subjektif dan berkait dengan budibicara. Asalkan award tersebut tidak menimbulkan pandangan serong, ianya mestilah disahkan. Prinsip-prinsip yang perlu dipakai untuk award yang sedemikian tidak boleh lebih atau kurang daripada prinsip-prinsip yang digunakan untuk award kecederaan diri.

[4] Walaupun responden telah mendapat pekerjaan lain, Mahkamah Perusahaan memberikannya award pampasan sebagai ganti pengembalian semula jawatan dari tarikh bermulanya pekerjaan sehingga ke tarikh award diberikan. Jumlah tambahan itu mestilah mengambarkan pengaruh-pengaruh yang dirujuk sebagai kedudukan yang merugikan responden berikutan dengan pemecatannya. Ianya mungkin banyak sedikit tetapi bukanlah tidak berkadar atau tidak munasabah.

[Award gaji kebelakang dibatalkan; perkara ini diremit ke Mahkamah Perusahaan untuk taksiran gaji kebelakang; setiap pihak menanggung sendiri kos rayuan.]

Case(s) referred to:

Ahmed Abdul Rahman v. SPK-Sentosa Corp Bhd & Anor [1998] 4 CLJ 269 ***(refd)***
Anisminic Ltd v. Foreign Compensation Commission [1969] 2 AC 147 ***(refd)***
Dr A Dutt v. Assunta Hospital [1981] 1 MLJ 304 ***(not foll)***
Goon Kwee Phoy v. J & P Coats (M) Bhd [1981] 2 MLJ 129 ***(refd)***
Hoh Kiang Ngan v. Mahkamah Perusahaan Malaysia & Anor [1996] 4 CLJ 687 ***(refd)***
Kannan & Anor v. Menteri Buruh Dan Tenaga Rakyat & Ors [1974] 1 MLJ 90 ***(refd)***
L Michael & Anor v. M/s Johnson Pumps India Ltd [1975] 1 LLJ 262 ***(refd)***
Majlis Perbandaran Pulau Pinang v. Syarikat Bekerjasama-sama Serbaguna Sungai Gelugor [1999] 3 CLJ 65 ***(refd)***
Page v. Hull University Visitor [1993] AC 682 ***(refd)***
Pang Ah Chee v. Chong Kwee Sang [1985] 2 CLJ 221 ***(refd)***
Rama Chandran v. The Industrial Court of Malaysia & Anor [1997] 1 CLJ 147 ***(refd)***
South-East Asia Fire Bricks Sdn Bhd v. Non-Metallic Mineral Products Manufacturers Employees Union & Ors [1980] 2 MLJ 165 ***(not foll)***
Syarikat Kenderaan Melayu Kelantan Bhd v. Transport Workers' Union [1995] 2 CLJ 748 ***(refd)***

Legislation referred to:
Industrial Relations Act 1967, s. 20(1)

Other source(s) referred to:
The Law of Industrial Disputes, Malhotra, vol 2, 4th edn

For the appellant - N Sivabalah; M/s Shearn Delamore & Co
For the 1st respondent - KP Gengadharan; M/s Genga Maha Wong & Co

[Appeal from High Court, Kuala Lumpur; Originating Motion No: R2-25-108-96]

Reported by S Dharmendran

JUDGMENT

Gopal Sri Ram JCA:

This appeal raises two questions. Neither of them gives rise to any difficulty. They are matters upon which our courts have made several pronouncements. The first question is whether the Industrial Court had exceeded its jurisdiction in holding that the respondent had been dismissed without just cause or excuse. The second is whether the compensation awarded by the Industrial Court to the respondent is excessive. Both were tested in *certiorari* proceedings before the High Court and were resolved against the appellant. The factual background from which these questions arise may be shortly stated.

The respondent was at all material times the appellant's general manager in Sabah. He commenced his employment on 1 November 1984. His salary was RM8,000 per month. On 15 May 1986, the appellant served him with a letter setting out three charges of misconduct. The first charge related to three instances where the respondent had allegedly overstepped the bounds of his authority. The second and third charges alleged that the respondent had abused his authority. The respondent gave a written answer to the charges formulated against him. But the appellant's board rejected his explanation. It terminated his services. The respondent challenged the termination. He made representations under s. 20(1) of the Industrial Relations Act 1967. The Minister referred those representations to the Industrial Court. He made the reference on 19 January 1988. Thereafter, the Industrial Court proceeded with the hearing of the case. It found for the respondent. It held that he had been dismissed without just cause or excuse. But it refused to reinstate him. It awarded him monetary compensation instead.

The Industrial Court's award was attacked in *certiorari* proceedings before the High Court. The case was thoroughly argued. All points that could possibly be taken were taken. But the judge was not impressed. He declined *certiorari*. The appellant has appealed against his refusal.

Before us, counsel for the appellant conceded that the second and third charges were not serious enough to warrant dismissal. He said that he was not pursuing them. In respect of the first charge, he accepted that there was strong evidence of condonation by the appellant's board of what the respondent had done.

So it comes to this. The charges of misconduct were all groundless. The appellant had acted without just cause or excuse when it terminated the respondent's contract of employment. In industrial law, it does not matter what you call it – termination or dismissal – it is all the same. At the end of the day it is for the Industrial Court to determine whether there has been a dismissal and whether that dismissal was with just cause or excuse. That is what was held by the Federal Court in *Goon Kwee Phoy v. J & P Coats (M) Bhd* [1981] 2 MLJ 129. There is a passage in the judgment of Raja Azlan Shah CJ (Malaya) (as he then was) in that case which has been applied in several subsequent cases. It is at p. 136 of the report. And it reads as follows:

> We do not see any material difference between a termination of the contract of employment by due notice and a unilateral dismissal of a summary nature. The effect is the same and the result must be the same. Where representations are made and are referred to the Industrial Court for enquiry, it is the duty of that court to determine whether the termination or dismissal is with or without just cause or excuse. If the employer chooses to give a reason for the action taken by him, the duty of the Industrial Court will be to enquire whether that excuse or reason has or has not been made out. If it finds as a fact that it has not been proved, then the inevitable conclusion must be that the termination or dismissal was without just cause or excuse. The proper enquiry of the court is the reason advanced by it and that court or the High Court cannot go into another reason not relied on by the employer or find one for it.

The point received further emphasis in *Rama Chandran v. The Industrial Court of Malaysia & Anor.* [1997] 1 CLJ 147, 160, where the Federal Court applied with approval the following dictum in the judgment of the Indian Supreme Court in *L Michael & Anor v. M/s Johnson Pumps India Ltd* [1975] 1 LLJ 262 at p. 268:

> The tribunal has the power and, indeed the duty to x-ray the (termination) order and discover its true nature, if the object and effect, if the attendant circumstances and the ulterior purpose to dismiss the Employee because he is an evil to be eliminated. But if the management, to cover up the inability to establish by an enquiry, illegitimately but ingeniously passes an innocent-looking order of termination simpliciter, such action is bad and is liable to be set aside.

Based on these well-settled principles, it is abundantly clear that the Industrial Court did not commit any error of law when it held that the respondent had been dismissed without just cause or excuse. It did not therefore exceed its jurisdiction.

The appellant also complains about the quantum of compensation awarded. So we must see what the Industrial Court did.

First, it awarded the respondent arrears of salary from the date of dismissal, ie, from 1 June 1986 until the last date of hearing of the case, ie, 11 October 1995. From this sum it ordered a deduction of the respondent's contribution to the Employees Provident Fund. Next, it awarded the respondent compensation *in lieu* of reinstatement. The multiplier was of one month's salary for each year of service. The multiplicand was the period 1 November 1984 until 11 October 1995. Lastly, it awarded the respondent twenty days' wages *in lieu* of his unutilised leave. The total sum awarded by the Industrial Court works out to an amount in excess of RM1 million.

The first question which, I think, we ought to address is whether the High Court has jurisdiction in *certiorari* proceedings to interfere with the quantum of compensation. The respondent has argued against the question. In other words, he says that there is no jurisdiction. He relies on *Dr. A. Dutt v. Assunta Hospital* [1981] 1 MLJ 304. In that case, Chang Min Tat FJ, said (at p. 314):

> As for the award of compensation, even assuming that the award contains one or more errors upon its face, the error or errors did not give the High Court jurisdiction to quash the decision of the Industrial Court. It is in this realisation of the proper law in the matter, as we understand him, that Mr Peddie has not made the slightest attempt to address us on the quantum.

This statement was entirely influenced by the decision in *South-East Asia Fire Bricks Sdn Bhd v. Non-Metallic Mineral Products Manufacturers Employees Union & Ors* [1980] 2 MLJ 165. That case upheld the view that in the context of a statutory ouster there was a distinction between errors of law that go to jurisdiction and those that do not. In earlier cases, our courts had held that the decision of a public decision-maker could be quashed if it was not in accordance with law. See *Kannan & Anor. v. Menteri Buruh Dan Tenaga Rakyat & Ors.* [1974] 1 MLJ 90. But the Privy Council either disapproved of or overruled those cases. That was because the judicial committee did not fully appreciate the impact of the speeches in *Anisminic Ltd. v. Foreign Compensation Commission* [1969] 2 AC 147, a case that forever changed the face of administrative law. It did away with the distinction between errors of law that go to jurisdiction and errors of law that do not. In England the point was put beyond argument in *Page v. Hull University Visitor* [1993] AC 682.

The *Firebricks* case worked its will for many years in our jurisprudence. It prevented intervention in cases where there was a patent error of law which was classified as non-jurisdictional. It occasioned much hardship. But we finally managed to jettison it in this court. It was in *Syarikat Kenderaan Melayu Kelantan Bhd v. Transport Workers' Union* [1995] 2 CLJ 748. Later, that decision was upheld by the Federal Court in *Hoh Kiang Ngan v. Mahkamah Perusahaan Malaysia & Anor* [1996] 4 CLJ 687. Very recently, a differently constituted bench of the Federal Court came to the same conclusion, although it did so without the benefit of the views in these cases. See *Majlis Perbandaran Pulau Pinang v. Syarikat Bekerjasama-sama Serbaguna Sungai Gelugor* [1999] 3 CLJ 65. There, Edgar Joseph Jr. FCJ, said (at p. 101):

> Accordingly, we hold that Lord Denning's view in *Pearlman* is to be preferred to that of the Privy Council in the *Fire Brick*'s case, which should no longer be considered good law. To hold otherwise would mean, as Professor Jain has pointed out, that a tribunal could misinterpret the law without worrying about interference and the tribunal would become the final judge of the law, thereby – in the words of Lord Diplock quoted above – violating the constitutional principle that it is the High Court which determines the meaning of legislation and not any other entity.
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> In our view, therefore, unless there are special circumstances governing a particular case, notwithstanding a privative clause, of the 'not to be challenged, etc' kind, judicial review will lie to impeach all errors of law made by an administrative body or tribunal and, we would add, inferior courts. In the words of Lord Denning in *Pearlman v. Harrow School (ibid)* at p. 70, '… no court or tribunal has any jurisdiction to make an error of law on which the decision in the case depends. If it makes such an error, it goes outside its jurisdiction and *certiorari* will lie to correct it.

It follows that the passage in *Dr Dutt*'s case *(ibid)* relied upon by the respondent no longer represents the law. Accordingly, it is open to the High Court in *certiorari* proceedings to determine whether the compensation awarded by the Industrial Court is in accordance with law. If it is not, then I see no reason why an award of compensation may not be quashed. Whether the High Court ought to interfere with an award of compensation in any given case would, of course, depend on the facts of the particular case. The decision of this Court in *Ahmed Abdul Rahman v. SPK-Sentosa Corp. Bhd. & Anor* [1998] 4 CLJ 269 provides a useful illustration of a case where an award of compensation was corrected.

Mr. Sivabalah of counsel for the appellant has submitted that the grounds on which an award of compensation may be reviewed are the same as those on which any decision of a public decision-maker may be challenged. That submission is, I think, correct.

Now, the grounds of public law challenge are as set out in the judgment of Edgar Joseph Jr. FCJ, in *R. Rama Chandran v. The Industrial Court of Malaysia & Anor*. [1997] 1 CLJ 147. I do not propose to repeat in full what was there said. To summarise, there are at least four reasons why the decision of a public decision-maker may be void. It may be contrary to law. Or it may be procedurally flawed. Or it may be unreasonable in the *Wednesbury* sense. Or it may be disproportionate.

That brings me to the question whether the award of compensation is flawed in the present instance. To answer that question you have to bear in mind the principles that govern the award of compensation in a case of dismissal without just cause and excuse. In industrial law, the usual remedy for unjustified dismissal is an order of reinstatement. It is only in rare cases that reinstatement is refused. For example, as here, where the relationship between the parties has broken down so badly that it would not be conducive to industrial harmony to return the workman to his place of work. In such a case, the Industrial Court may award monetary compensation. Such an award is usually in two parts. First, there is the usual award for the arrears of wages, or backwages, as it is sometimes called. It is to compensate the workman for the period that he has been unemployed because of the unjustified act of dismissal. Second, there is an award of compensation *in lieu* of reinstatement. I will say more about this in a moment. Let me deal with the award of backwages first.

The principles that govern an award of backwages are conveniently summarised in vol. 2 of the 4th edn of *The Law of Industrial Disputes* by Malhotra. It is a leading textbook on the subject. It is highly regarded by our courts. There is a useful passage at p. 961. It reads as follows:

> In dealing with different types of cases, the Tribunal in each case has to see that relief should be given in a particular case to a particular workman in the matter of compensation by balancing the conflicting claims and the variations that exist in human conduct and the requirements of social justice. On the parity of reasoning, the adjudicator has to counter-balance the claim of the employer that the workman was gainfully employed elsewhere during the period of unemployment with him, with the claim of the workman that he was not employed anywhere at all. The quantum of back-wages is, therefore, a matter in the discretion of the Tribunal dependent on the facts of a case. The Tribunal will exercise its discretion keeping in view all the relevant circumstances. But the discretion must be exercised in a judicial and judicious manner. The reason for exercising discretion must be cogent and convincing and must appear on the face of the record. When it is said that something is to be done within the discretion of the authority, that something is to be done according to rules of reason and justice, according to law and not humour. It is not to be arbitrary, vague and fanciful but legal and regular. The discretion is also to be exercised

having regard to certain approved principles and procedures. A workman directed under an award to be reinstated with back-wages would not be entitled to back-wages for the period during which he was usefully employed elsewhere, because he cannot be allowed to take double advantage and make excessive gains relying on the wrongful act of the employers.

What comes across quite clearly is that an adjustment should be made to an award of backwages where the workman has found other employment. The appellant has complained that no such adjustment was made by the Industrial Court in the present instance. I think that the complaint is justified. It is common ground that in August 1988, the respondent found himself other employment in Peninsula Malaysia. Yet the Industrial Court did not take that into account when awarding the respondent his backwages. It proceeded as though the respondent had not been employed elsewhere during the whole of the period in question. The award in respect of backwages is therefore flawed. It is not an award that a reasonable tribunal would have arrived at having regard to the principles of law that govern the position. I would therefore quash the award of backwages. A fresh award of backwages must be made, taking into account the fact that the respondent has found other employment. We may, of course, do it ourselves. But I do not think that we are armed with sufficient facts for us to make the adjustment ourselves in the present case. I would therefore order that the matter be remitted to the Industrial Court for a fresh assessment to be made.

I now turn to the award for compensation *in lieu* of an order of reinstatement. Now, there are many imponderables that influence the making of such an award. They are too numerous for me to mention. They include such matters as the stigma which an act of dismissal carries with it. There is also the drawback that the workman if and when he finds alternative employment may have to start from a lower rung. The assessment is highly subjective and discretionary. So long as the award is not one that makes one look upon it askance, it must be upheld. The principles that are to be applied to such an award should, in my judgment, be more or less the same as those governing an award of damages for personal injury. They were summarised by Hashim Yeop A. Sani FJ (as he then was) in *Pang Ah Chee v. Chong Kwee Sang* [1985] 2 CLJ 221, 225 as follows:

It has however long been settled that where a trial judge has erred in the "direction of being too generous" that would not by itself constitute a matter to be appealed from (*Pahang Lim Siong Motor Co Ltd & Anor v. Cheong Swee Khai & Anor* [1962] MLJ 29). In *United Plywood & Sawmill Ltd v. Lock Ngan Loi* [1970] 2 MLJ 237 Gill FJ (as he then was) explained the principle clearly when he said:

> The general principle is that an appellate court can only interfere with an assessment if it is considered so inordinately low or inordinately high as to make the court exclaim, 'Good gracious, is that the sum which has been awarded – that sum must be altered', or it is so much out of line with the discernible trend or pattern of awards in reasonably comparable cases that it must be regarded as a wholly erroneous estimate.
>
> In such assessment there is generally ample room for individual choice to arrive at a fair and reasonable figure and the appellate court is always slow to reverse the trial Judge's decision on such assessment unless there are strong grounds for interference.

In the present instance, the Industrial Court has, as I earlier observed, awarded a month's salary for each year of service from 1 November 1984 until 11 October 1995. Counsel for the appellant says that there is a serious error here because the cut-off date should be August 1988. With respect, I am unable to agree. The additional sum must, I think be taken as representing those vicissitudes to which I earlier referred, such as the disadvantaged position in which the respondent must have found himself in consequence of the dismissal. It may be a little generous. But I am unable to say that it is either disproportionate or unreasonable. This part of the award should not therefore be disturbed.

In the result, I would allow the appeal to the very limited extent I have earlier indicated. The award of backwages is quashed. The matter is remitted to the Industrial Court for assessment of the backwages, taking into account the fact of the respondent having found other employment in 1988. Since the appellant has succeeded only on a very small part of the appeal, I would order that each party do bear its own costs of the appeal. The order as to costs in the court below will stand undisturbed.

My learned brothers Ahmad Fairuz and Mokhtar Sidin JJCA, have seen this judgment in draft and agree with the reasoning and the conclusions therein.